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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,459	12/04/2000	Nils Arthun	11894	9954

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Orum & Roth  
53 West Jackson Boulevard  
Chicago, IL 60604-3606

EXAMINER
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KOCH, GEORGE R

ART UNIT	PAPER NUMBER
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1734

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DATE MAILED: 01/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-8

**Office Action Summary**

Application No.

09/701,459

Applicant(s)

ARTHUN, NILS

Examiner

George R. Koch III

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 6, 8, 11, 13 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 3 recites the broad recitation bar in line 4, and the claim also recites bars in line 4, which is the narrower statement of the range/limitation (at the phrase in line 4 where claim 3 states "bar/bars", thus creating

Art Unit: 1734

confusion as to whether the claim requires 1 bar or multiple bars). Similarly, claim 6 recites the broad recitation bar in line 3, and the claim also recites bars in line 3, which is the narrower statement of the range/limitation. Claims 8, 11, 13 and 17 make similar recitations

4. Claim 8 recites the limitation "the fixture" in line 4. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 1734

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-6, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfaff (US Patent 5,732,530) in view of Owens (US Patent 5,768,935).

Pfaff discloses a crimping tool having two jaws (Figure 1, items 32) movable towards each other and capable of crimping sealing means on a hose, and cutting means (Figure 4, item 34) capable of making a cutting indication on a sleeve and hose to allow a sealing cutting of the hose.

Pfaff does not disclose at least one bar which projects from the jaws and is capable of making an indentation in the sleeve to reinforce the sleeve on the hose.

Owens discloses a reinforcing crimping device which makes three indentations in a sleeve on a hose to reinforce the sleeve (Figure 4, items 24, 25, and 26). Owens discloses that crimping multiple times allows for the hose to be compressed tightly on the underlying material (column 3, lines 8-23). Therefore, it would have been obvious to include multiple bars that crimp without cutting as suggested by Owens in the device of Pfaff in order to ensure that the sleeve or hose is firmly placed on the underlying material.

As to claim 2, Owens discloses using multiple crimping devices to make the crimps (items 24, 25, and 26).

As to claim 3, Pfaff's cutting means has a substantially straight cutting edge (item 34).

Art Unit: 1734

As to claim 4, Pfaff discloses an opposite recess for the cutting means (see Figure 4).

As to claim 5 and 6, the location of the crimping device to the cutting edge is well known and conventional and is determined by the intended use of the device. One of ordinary skill in the art would realize that placing the cutting edge between the bar/bars, as in claim 5, would be the preferred design when the device is intended to crimp the hose on both sides of the cutting device, such as when the operator wants to cut off two liquid filled regions from each other. One of ordinary skill in the art would also realize that placing the cutting edge on one side of the bar/bars, as in claim 6, would be selected when the device is intended to crimp only one side of the cut, leaving the other side of the cut significantly undeformed so that it presents a fresh tube opening for further applications. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated one of these two cutting edge-bar relations in order to make the device more suitable for the intended use and more desirable to the purchaser of the crimping tool.

As to claim 11, Pfaff and Owens combined would disclose that the cutting edge projects farther than either the bar or bars due to the recess.

As to claim 12, see rejection of claim 5.

As to claim 13, see rejection of claim 6.

9. Claims 7-10 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfaff and Owens as applied to claims 1-5 above, and further in view of Undin et al (US Patent 4,637,242).

As to claims 7 and 14, Pfaff and Owens as applied to any of claims 1 through 5 do not disclose the presence of a fixture to position the sleeve on the hose.

Undin discloses a fixture structure (see Figure 4, item 25), which is a fixture designed to position the overlaying portion on an underlaying portion in a crimping operation (it appears that the device is especially suited for crimping telephone connections to telephone wires). The fixture 25 ensures that proper positioning of the two sections that are being crimped together (see column 1, lines 5-38, and other sections, which disclose that the driving impetus of the Undin invention is using the fixture 25 to properly location and crimp the two portions).

As to claims 8-10 and 15-17, Pfaff discloses making the crimping device such that the elements are disposed on the jaws, with the cutting edge on one jaw, and the recess on the other jaw, and that the jaws are manufactured in one piece. Similarly, Pfaff discloses that the device is designed to be to be hand actuated by driving means (item 30). Similarly, the driving means is a gear similar to item 10 in applicants specification and claimed in claims 10 and 17.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (703)


Art Unit: 1734


305-3435, TDD only. The federal relay number for calling a TDD is 1-800-877-8339.

The examiner can normally be reached on M-Th 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
George R. Koch III  
January 14, 2002

  
RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700